



DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 3

Minimum Capital Ratios; Issuance of Directives

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 1 to 199, revised as of January 1, 2012, on page 52, in appendix C to Part 3, Part I, Section 1 is revised to read as follows;

Appendix C to Part 3—Capital Adequacy Guidelines for Banks: Internal-Ratings-Based and Advanced Measurement Approaches

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Part I. General Provisions

Section 1. Purpose, Applicability, Reservation of Authority, and Principle of Conservatism

(a) *Purpose.* This appendix establishes:

- (1) Minimum qualifying criteria for banks using bank-specific internal risk measurement and management processes for calculating risk-based capital requirements;
- (2) Methodologies for such banks to calculate their risk-based capital requirements; and
- (3) Public disclosure requirements for such banks.

(b) *Applicability.* (1) This appendix applies to a bank that:

- (i) Has consolidated assets, as reported on the most recent year-end Consolidated Report of Condition and Income (Call Report) equal to \$250 billion or more;
- (ii) Has consolidated total on-balance sheet foreign exposure at the most recent year-end equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with head office or guarantor located in another country plus redistributed guaranteed amounts to the country of head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report);
- (iii) Is a subsidiary of a depository institution that uses 12 CFR part 3, appendix C, 12 CFR part 208, appendix F, 12 CFR part 325, appendix D, or 12 CFR part 567, appendix C, to calculate its risk-based capital requirements; or

(iv) Is a subsidiary of a bank holding company that uses 12 CFR part 225, appendix G, to calculate its risk-based capital requirements.

(2) Any bank may elect to use this appendix to calculate its risk-based capital requirements.

(3) A bank that is subject to this appendix must use this appendix unless the OCC determines in writing that application of this appendix is not appropriate in light of the bank's asset size, level of complexity, risk profile, or scope of operations. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(c) *Reservation of authority*—(1) *Additional capital in the aggregate*. The OCC may require a bank to hold an amount of capital greater than otherwise required under this appendix if the OCC determines that the bank's risk-based capital requirement under this appendix is not commensurate with the bank's credit, market, operational, or other risks. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(2) *Specific risk-weighted asset amounts*. (i) If the OCC determines that the risk-weighted asset amount calculated under this appendix by the bank for one or more exposures is not commensurate with the risks associated with those exposures, the OCC may require the bank to assign a different risk-weighted asset amount to the exposures, to assign different risk parameters to the exposures (if the exposures are wholesale or retail exposures), or to use different model assumptions for the exposures (if relevant), all as specified by the OCC.

(ii) If the OCC determines that the risk-weighted asset amount for operational risk produced by the bank under this appendix is not commensurate with the operational risks of the bank, the OCC may require the bank to assign a different risk-weighted asset amount for operational risk, to change elements of its operational risk analytical framework, including distributional and dependence assumptions, or to make other changes to the bank's operational risk management processes, data and assessment systems, or quantification systems, all as specified by the OCC.

(3) *Regulatory capital treatment of unconsolidated entities*. If the OCC determines that the capital treatment for a bank's exposure or other relationship to an entity not consolidated on the bank's balance sheet is not commensurate with the actual risk relationship of the bank to the entity, for risk-based capital purposes, it may require the bank to treat the entity as if it were consolidated onto the bank's balance sheet and require the bank to hold capital against the entity's exposures. The OCC will look to the substance of and risk associated with the transaction as well as other relevant factors the OCC deems appropriate in determining whether to require such treatment and in determining the bank's compliance with minimum risk-based capital requirements. In making a determination under this paragraph, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.12.

(4) *Other supervisory authority*. Nothing in this appendix limits the authority of the OCC under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient capital levels, or violations of law.

(d) *Principle of conservatism.* Notwithstanding the requirements of this appendix, a bank may choose not to apply a provision of this appendix to one or more exposures, provided that:

(1) The bank can demonstrate on an ongoing basis to the satisfaction of the OCC that not applying the provision would, in all circumstances, unambiguously generate a risk-based capital requirement for each such exposure greater than that which would otherwise be required under this appendix;

(2) The bank appropriately manages the risk of each such exposure;

(3) The bank notifies the OCC in writing prior to applying this principle to each such exposure; and

(4) The exposures to which the bank applies this principle are not, in the aggregate, material to the bank.

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